

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q86325	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/526,889	March 4, 2005	
	First Named Inventor		
	Takashi YAMASHITA		
	Art Unit	Examiner	
	3634	Jerry E. Redman	
<p style="text-align: center;">WASHINGTON DC SUGHRUE/265550</p> <p style="text-align: center;">65565</p> <p style="text-align: center;">CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s).</p> <p>Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number 59,561</p> <p style="text-align: right;">/Dion R. Ferguson/ Signature</p> <p style="text-align: right;">Dion R. Ferguson Typed or printed name</p> <p style="text-align: right;">(202) 293-7060 Telephone number</p> <p style="text-align: right;">November 20, 2007 Date</p>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q86325

Takashi YAMASHITA, et al.

Appln. No.: 10/526,889

Group Art Unit: 3634

Confirmation No.: 7365

Examiner: Jerry E. Redman

Filed: March 4, 2005

For: ATTACHMENT STRUCTURE FOR A WEATHER STRIP

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated June 22, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue. As of the Advisory Action dated November 2, 2007, the Amendment filed October 22, 2007, has been entered and claims 1-6 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, and stand further rejected under 35 U.S.C. § 103(a) as being unpatentable over Nozaki et al. (USP 5,207,029) in view of Nozaki (USP 6,601,346)

Claim Rejections - 35 U.S.C. § 112

In the Final Office Action dated June 22, 2007, the Examiner states that the phraseology of the claims is not understood and requests citations to support in the specification for many of the claim elements.² In response, Applicants first submitted that support for the first protrusion may be found on page 7, line 25 - page 8, line 3.³ Second, Applicants submitted that page 7, lines 11-17 provide support for the recited "second protrusion."⁴ Third, Applicants respectfully referred the Examiner to FIG. 2, element 10 as support for claim 3.⁵ Fourth, Applicants respectfully directed the Examiner to FIG. 2, element 8 as support for claim 4.⁶ Fifth, Applicants respectfully referred the Examiner to element 10 as support for the lip portion.⁷ Applicants also referred the Examiner to FIG. 2, elements 2, 3 and 10 as support for the recited gaps. Specifically, FIG. 2 shows a gap between the top of element 10 and element 3, as well as a gap between the bottom of element 10 and element 2.⁸ Sixth, Applicants direct the Examiner to element 11 as seen in FIG. 2 of the instant invention, as well as the gap shown on the bottom of element 5.⁹

² Final Office Action, page 2-3.

³ Amendment filed October 22, 2007, page 5.

⁴ *Id.*, page 6.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

The Examiner did not indicated if the §112, second paragraph has been withdrawn in the Advisory Action. However, based on the above, Applicants request withdrawal of the rejections over §112, second paragraph.

Claim Rejections - 35 U.S.C. § 103

In the Final Office Action, the Examiner alleges that a combination of Nozaki ('029) and Nozaki ('346) discloses all of the elements of claim 1.¹⁰ Applicants respectfully disagree.

Nozaki ('029) discloses a weather strip for an automobile door. FIG. 2 discloses a door sash 10, a first seal 31 and a second seal 32. However, Nozaki ('029) fails to disclose that the door sash 10 contains a hook portion is vertically arranged *only* on the vehicle exterior side of the door sash. Rather, Nozaki ('029) discloses that the door sash has a pair of hook portions, one arranged on the vehicle exterior side of the door sash, and one on the vehicle interior side of the door sash. Thus, Nozaki ('029) fails to disclose this aspect of claim 1.

Nozaki ('346) also discloses a weather strip. However, Nozaki ('346) also fails to show a door sash which contains a hook portion arranged *only* on the vehicle exterior side of the door sash. Thus, Nozaki ('346) fails to cure the deficient disclosure of Nozaki ('029).

In the Advisory Action, the Examiner did not respond to the substance of the above arguments. Rather, the Examiner simply stated "the claims still read on the art of record."¹¹

¹⁰ Final Office Action, page 3-4.

¹¹ Advisory Action dated November 2, 2007, page 1.

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U.S. Application No. 10/526,889

Attorney Docket No. Q86325

Because the Examiner has not properly responded to the arguments submitted in the October 22 Amendment as required by MPEP 707.07, Applicants submit that claims 1-6 are patentable over the applied art for the reasons indicated in the Amendment filed October 22, 2007. MPEP §707.07(f) requires that “[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the Applicant’s argument and answer the substance of it.” In the instant application, the Examiner has failed to provide an answer to the substance of Applicants’ argument submitted in the Amendment dated October 22, 2007 with regard to the independent claims. Therefore, Applicants arguments regarding the patentability of independent claim 1 remain unrebutted.

Conclusion

For the reasons outlined above, Applicants again submit that the proposed combination of Nozaki (‘029) and Nozaki (‘346) fails to disclose all of the elements of independent claim 1, and claim 1 is patentable over the applied art. Claims 2-6 are patentable over the applied art at least by virtue of their dependency from claim 1.

Respectfully submitted,

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